

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

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FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

In the Matter of)
)
Revision of the Commission's Rules)
To Ensure Compatibility with)
Enhanced 911 Emergency Calling Systems)
)
Lewis and Clark Communications, LLC)
Petition for Limited Waiver of)
Section 20.18(c) of the Commission's Rules)

CC Docket No. 94-102

**Petition for Waiver and Extension of
Digital Wireless 911 TTY Requirements**

Pursuant to Section 1.3 of the Commission's Rules,¹ Lewis and Clark Communications, LLC ("Lewis and Clark"), requests a limited waiver of the June 30, 2002 deadline for digital wireless systems to be capable of transmitting 911 calls from text telephone ("TTY") devices.² Specifically, Lewis and Clark requests an extension for compliance until September 30, 2002, for only its GSM markets because its infrastructure vendor only recently experienced fatal errors in the software release containing the TTY solution. The three-month extension will allow the vendor to correct the error and Lewis and Clark to install and fully test the solution prior to deployment in its operational GSM markets.

¹ 47 C.F.R. § 1.3.

² Section 20.18(c) of the Commission's rules provides as follows:

TTY Access to 911 Services. Licensees . . . must be capable of transmitting 911 calls from individuals with speech or hearing disabilities through means other than mobile radio handsets, e.g., through the use of Text Telephone Devices (TTY).

A Note to this section, also codified in the C.F.R., indicates that operators of digital wireless systems must comply with this requirement on or before June 30, 2002. 47 C.F.R. § 20.18(c).

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Lewis and Clark just recently commenced commercial service in certain markets. In the markets that it is currently operational (set forth in Exhibit 1), its network utilize TDMA technology whereby it is TTY compliant. In the markets set forth in Exhibit 2, its network is in the process of being constructed using GSM technology.³ In all of its operational markets, Lewis and Clark does not have any subscribers, but provides service only to non-subscribers roaming into its service areas. At this time, Lewis and Clark does not own its own switches but receives switching services from a third party, pursuant to a switch sharing agreement; thus, compliance with TTY is dependent upon the third party's TTY implementation schedule. Specifically, Lewis and Clark seeks a limited extension for only the GSM markets set forth in Exhibit 2 because it was informed by the third party that there were multiple, persistent fatal errors in its vendor's software release during field testing conducted just prior to full deployment.

When the public interest requires, the Commission has authority to temporarily waive application of a regulation, such as Section 20.18(c). Section 1.3 provides that the Commission may suspend or waive its rules, in whole or in part, for "good cause shown." In turn, the courts have found that waiver is appropriate "if special circumstances warrant a deviation from the general rule and such deviation will serve the public interest."⁴ Importantly, the Commission has consistently concluded that waiver of a regulatory deadline is appropriate when noncompliance "is due to circumstances beyond the

³ Lewis and Clark anticipates being operational in the markets set forth in Exhibit 2 no later than August 21, 2002.

⁴ *Northeast Cellular Tele. Co. v. FCC*, 897 F.2d 1164, 1166 (D.C. Cir. 1990).


licensee's control.”⁵ In the context of other Section 20.18 regulation governing deployment of 911 location identification capabilities, the Commission has specifically recognized that “technology-related issues” delaying implementation could warrant grant of a waiver to allow for their resolution.⁶

Accordingly, because the necessary TTY software was found to have numerous errors, Lewis and Clark hereby requests an extension until September 30, 2002 to allow the equipment vendor to complete any necessary repairs to its software.

Respectfully submitted,

LEWIS AND CLARK COMMUNICATIONS,
LLC

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July 1, 2002

⁵ E.G., Order, *McElroy Electronics Corp.; Request for Clarification of the commission's Rules Regarding Section 22.91(a) in Relation to Construction of Cellular System for Market No. 15-A2*, 13 FCC Rcd. 7291, 7295, ¶ 8 (WTB 1998).

⁶ See Fourth Memorandum Opinion and Order, *Revision of the Commission's Rules to Ensure Compatibility with Enhanced 911 Emergency Calling Systems*, FCC 00-326, 15 FCC Rcd. 17422. 17459, ¶ 43 (2000) (“In the case of E911, we have recognized that there could be instances where technology-related issues or exceptional circumstances may mean that deployment of Phase II may not be possible by October 1, 2001, and indicated that these cases could be dealt with through individual waivers as these implementation issues are more precisely identified.”)

Exhibit 1

Lewis and Clark	KNLG219	F	10	BTA117	Du Bois, PA
Lewis and Clark	KNLH231	F	10	BTA138	Fargo, ND
Lewis and Clark	KNLG911	F	10	BTA087	Clovis, NM
Lewis and Clark	KNLG254	F	10	BTA014	Anchorage, AK
Lewis and Clark	KNLF939	F	10	BTA045	Bismark, ND
Lewis and Clark	KNLH455	F	10	BTA463	Watertown, NY

Exhibit 2

<i>Licensor</i>	<i>FID No.</i>	<i>PL Class</i>	<i>MHz</i>	<i>Model #</i>	<i>Market Name</i>
Lewis and Clark Communications, LLC	KNLG924	F	10	BTA264	Lubbock, TX
Lewis and Clark Communications, LLC	KNLG926	F	10	BTA296	Midland, TX
Lewis and Clark Communications, LLC	KNLG929	F	10	BTA327	Odessa, TX

DECLARATION

I, Darla Pomeroy, hereby state and declare:

1. I am Vice President and Secretary of Lewis and Clark Communications, LLC.
2. I am familiar with the facts contained in the foregoing "Petition For Waiver And Extension of Digital Wireless 911 TTY Requirements" and I verify that those facts are true and correct to the best of my knowledge and belief, except that I do not and need not attest to those facts which are subject to official notice by the Commission.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 28th day of June, 2002.


Darla L. Pomeroy

CERTIFICATE OF SERVICE

I, Steven A. McCord, a legal assistant in the law offices of Lukas, Nace Gutierrez & Sachs, Chartered, do hereby certify that I have on this 1st day of July, 2002, sent by Hand-Delivery, copies of the foregoing Petition For Waiver And Extension Of Digital Wireless 911 TTY Requirements to the following:

Thomas J. Sugrue, Bureau Chief
Wireless Telecommunications Bureau
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Washington, DC 20554

Mindy Littell
Policy Division
Wireless Telecommunications Bureau
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A handwritten signature in black ink, appearing to read 'Steven A. McCord', written over a horizontal line.

Steven A. McCord